IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.30 OF 2006
IN
EXECUTION APPLICATION NO.165 OF 2005
IN
PUNE SPECIAL SUMMARY SUIT NO.132 OF 2000

Payal Kamlesh Sharma ..Plaintiff.

Vs.

Rusi Adi dhondy ..Defendant.

And

Vera A. Dhondy ..Intervenor.

Mr.Vilas Tapkir for the Plaintiff.

Mr.B.Colabawala i/b.M/s.Madekar & Co. for the Applicants.

CORAM : S.J. VAZIFDAR, J.
DATED : 6TH FEBRUARY, 2006

P.C. :

The Chamber Summons is taken out to raise the attachment levied on immoveable and moveable property on the ground that the same belonged to the Applicant and not the judgment debtor.

2. Admittedly, the immoveable property is a residential premises. The father of the Applicant was the tenant in respect of the immoveable propety. Thereafter, the Applicant’s mother became the tenant. The Appliant’s mother also expired.

According to the Applicant, thereafter, she has become the tenant in respect of the said premises.

3. In any event, admittedly, the immoveable property is a residential premises and therefore not liable to attachment under section 60 of the C.P.C. There was no dispute regarding the same. The only dispute is regarding the moveable properties lying in the said property. The moveable properties are those which normally are found in the immoveable property such as air conditioners, refrigerators, cup-boards and furniture.

4. Firstly, there is no evidence adduced by the Plaintiff to establish that the moveable properties belonged to the judgment debtor. Though the Applicant is the sister of the judgment debtor, her properties cannot be sold in execution of a decree against her brother, judgment debtor.

5. On the other hand, the Applicant has produced bills for some of the aforeaid items. The said bills are in her name.

6. In the circumstances, Chamber Summons is made absolute in terms of prayer (a).